

## SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

June 10-14, 2002

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
6-11	EX	75/477,402	Pacer Technology	Simms Hairston Bucher*	whether the matter asserted for registration is inherently distinctive as a trademark or, in the alternative, has acquired distinctive-ness through use in commerce	Refusal Affirmed		configuration of a portion of the packaging for applicant's goods, namely, a container cap with four equally spaced flat wings projecting laterally from a concaved crown and with each wing forming two intersecting exterior edges projecting at right angles relatively to one another with each edge intersecting the concaved crown [epoxy glue for general bonding and repair purposes, for bonding metal, rubber, plastics, ceramics, fingernails and jewelry]		Leipzig	No
6-11	EX EX	74/417,538 74/472,908	MBNA American Bank, N. A.	Cissel (D) Quinn Bucher*	2(e)(1)	Refusal Affirmed in both cases		"MONTANA SERIES" and "PHILADELPHIA CARD" [both marks for credit card services featuring credit cards depicting scenes or subject matter of, or relating to, <i>respectively</i> , the state of Montana and the city of Philadelphia]		Coward	No
6-11	EX	75/553,426	Martin Container, Inc.	Simms Cissel* Hanak	genericness (whether applicant's mark is registrable on the Supplemental Register)	Refusal Affirmed		"CONTAINER.COM" [retail store services and retail services offered via telephone featuring metal shipping containers; rental of metal shipping containers]		Baldwin	Yes

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6-11	EX	75/592,771	Applewood Books, Inc.	Simms Cissel* Seeherman	2(d)	Refusal Affirmed		"HARPER'S WEEKLY" [printed materials, namely, newspapers and magazines, reproducing previously published newspapers and magazines in the field of news coverage]	2 cited registrations, both owned by the same entity: "HARPER" [books]; "HARPER'S" [periodically published magazines]	S. Kim	No
6-11	EX	75/805,820	Genzyme Corp.	Hohein* Walters Rogers	2(d)	Refusal Reversed		"SEPRAMESH" [coated mesh for surgical procedures including hernia repair]	"SUPRAMESH" [nylon in mesh form used as an implant in plastic surgery]	B. Rupp	No
6-11	EX	75/452,838	Impact Products, Inc.	Wendel* Bucher Bottorff	2(e)(1)	Refusal Affirmed		"STACK RACK" [liquid dispensing system consisting of plastic shelves, dispensing containers, trigger-operated spray bottles, and color labels for use in dispensing pre-measured liquid concentrates or ready to use chemicals, for use in the janitorial maintenance of commercial buildings]		Matthews	No
6-11	EX	75/533,136	The Hermitage Group, Inc.	Quinn* Holtzman Drost	2(a) [false suggestion of a connection]	Refusal Affirmed		"HERMITAGE" [printed art reproductions]		Luthey	No
6-12	EX	75/832,237	Boulevard Media, Inc.	Hohein* Chapman Wendel	2(e)(1)	Refusal Affirmed		"CASUAL SEX DATELINE" [electronic voice messaging services, namely, recording, storing and subsequent transmission of voice messages by telephone and telephone telecommunications services]		Isaacson	No

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6-12	EX	76/073,572	Trans Textiles Inc.	Simms* Hairston Bucher	2(d)	Refusal Affirmed (as to all cited registrations)		"VALENTINO CREATION" [sports shirts, t-shirts, sweat shirts, and pants]	8 cited registrations, all owned by the same entity: "VALENTINO" (in stylized, lower-case lettering) [brassieres]; "VALENTINO" [dresses, belts, gloves, scarves, swimwear, and ties] and [fashion consultation services, namely, creating clothing, jewelry and accessory designs, and selection of designs, and materials for couture customers] and [retail department store services] and [men's clothing, namely, suits, sport jackets, overcoats, shirts, trousers, Bermuda shorts, and bathing suits]; "VALENTINO" (in lower case lettering) [for various items of clothing]; "VALENTINO" (in lower case lettering, with a "V" design) [for various clothing items]; "VALENTINO" (in lower case lettering, with "Miss V" and "V" design) [for various clothing items]	Stephens	No

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6-12	EX	75/906,114	Advent Networks, Inc.	Cissel* Quinn Walters	2(e)(1)	Refusal Reversed		"ULTRABAND" [computer software for telecommunications purposes, namely, for a digital interface for connecting home content accessing devices with a global computer network over a hybrid fiber coaxial network for the delivery of additional information in a high-speed electronic format including video, text, and audio content; <i>etc.</i> ]		Mandir	No
6-12	EX EX	75/718,242 75/718,243	Patricia Dwyer-Bell and Richard Bell	Chapman* Wendel Rogers	2(d)	Refusal Affirmed in both cases as to both cited registrations		"SOURCE ONE NATURALS" <i>and</i> "SOURCE ONE FEEDS" [both marks for animal dietary supplements]	2 cited registrations owned by the same entity: "SOURCE" (and design) [dietary supplement for horse feed, composed of vitamins, minerals, trace elements and various other micronutrients] <i>and</i> "SOURCE" [dietary food supplement for animal feed, composed of vitamins, minerals, trace elements and other micronutrients, not intended for human consumption]	B. Brown	No

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6-12	EX	75/910,733	Applied Molecular Evolution, Inc.	Cissel* Wendel Bottorff	2(e)(1)	Refusal Affirmed		"CODON BASED SYNTHESIS" [research activities directed toward the molecular engineering of compounds for use in therapeutics, diagnostics, agricultural products, enzymes, chemical products, nutritional products, food additives and industrial applications, including but not limited to, commodity and specialty chemicals]		Griffin	No
6-12	OPP	117,291	Columbia Sportswear Co. v. Marc T. Nguyen	Cissel* Quinn Chapman	2(d)	Opposition Sustained	"TITANIUM" [parkas, snowsuits, pants, jackets, sweaters, vests, and pullover windbreakers]	"TITANIUM JEANS" [clothing, namely, jeans, sweat shirts, shirts, jackets, coats, sweat pants, slacks, suits, pants, headbands, visors, caps, dresses, shoes, sneakers, boots, wristbands, socks, t-shirts, belts, undergarments, neckties, dress shirts, collared shirts, rugby shirts, hockey jerseys, football jerseys, basketball jerseys, knit shirts, shorts, and sandals]			No
6-12	EX	75/525,735	Hotline Sales Corp.	Cissel* Chapman Bucher	2(d)	Refusal Affirmed		"AGACCI" [clothing, specifically, hosiery, undergarments, including lingerie]	"A'GACT" [retail store services in the field of women's clothing and accessories]	Robinson	No

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6-12	EX	75/900,636	The Baby Einstein Co., LLC	Cissel* Seeherman Hanak	2(d)	Refusal Affirmed		"BABY SANTA" (and design) [audiovisual and audio programming designed to stimulate the learning capabilities of infants and toddlers, namely pre-recorded videotapes, video discs, DVDs, CD-ROMs, audio cassettes and audio CDs, all featuring music, natural sounds, spoken word, photographic images and graphic images]	"BABY SANTA" [greeting cards, posters, children's story books, gift wrap paper and stationery, namely, writing paper and envelopes; clothing, namely, t-shirts, sweatshirts, pajamas, shoes and socks]	Sappenfield	No
6-13	EX	75/222,870	Harry V. Lehmann	Simms* Chapman Rogers	2(e)(1)	Refusal Reversed		"PHRASESCAN" [computerized online retail ordering services in the field of books, publications, excerpted text, and non-textual images]		Berk	No
6-13	EX	75/873,632	CRASH COURSE. COM, INC.	Cissel* Hanak Rogers	2(e)(1)	Refusal Affirmed		"CRASH COURSE" [educational services, namely, conducting on-line training classes in the field of computers, finance, investing, bookkeeping, cooking, languages, computer graphic design and layout, starting a small business, craft making, art, and photography via a global computing network]		Donnell	No

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6-13	EX	75/288,084	LTJ Diffusion	Quinn Hohein* Hairston	2(d)	Refusal Affirmed		"ARTHUR" (in stylized lettering) [clothing, namely, t-shirts, panties, long johns, bathing suits, underpants, shorts, socks, sweatshirts, sweatpants, sweat shorts, sweat suits, pajamas, sleep suits, bathrobes, dressing gowns, night-gowns, night shirts, night-dresses, overalls, jackets, over garments, namely, raincoat s and overcoats; brassieres, shirts, old style shirts, robes, pyjashorts, track suits, slippers; underwear for babies]	2 cited registrations, owned by the same entity, for: "ARTHUR" [clothing, namely, plush slippers; knit slipper socks; vinyl and/or patent leather dress shoes; suede, ultrasuede, leather-like and/or canvas casual shoes; vinyl rainboots; lace-up hiking boots with rubber soles; vinyl and/or plastic sandals; cotton knit socks; embroidered woven cotton baseball caps; silk-screened printed t-shirts; pajamas, footed pajamas] and "ARTHUR" [clothing, namely, sweatshirts]	Rossmann	No
6-14	EX	75/519,001	American Pie LLC	Seeherman Hohein Hairston*	2(d)	Refusal Affirmed		"AMERICAN PIE" [pie shells]	"RBI AMERICAN PIE" (and design) [pies]	DuBois	No

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6-14	EX	75/705,082	Network Photonics, Inc.	Hanak* Chapman Bottorff	2(e)(1)	Refusal Affirmed		"NETWORK PHOTONICS" [fiber optic telecommunications systems, namely, optical cross-connects, optical add/drop multi-plexers, DWDM terminals, SONET switches, SONET add/drop multi-plexers and ethernet switches incorporating DWDM, optical switching and optical filtering techniques for the transport and routing of optical telecommunications signals]		Baird	No
6-14	EX	75/629,489	Shell Oil Co.	Quinn* Hairston Drost	whether the matter applicant seeks to register is inherently distinctive as a service mark; whether applicant must comply with the examining attorney's requirement that it describe its mark	Refusal Affirmed (on grounds of applicant's failure to describe its mark); and the Board declined to decide the issue of inherent distinctiveness in the absence of a clear description of the mark		configuration of a building, with color lining [vehicle cleaning services]		Collins	No

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6-14	EX	75/746,326	Applied Industrial Technologies, Inc.	Hanak Hairston* Walters	whether the second amended recitation of services exceeds the scope of the original recitation of services, in violation of Rule 2.71(a); whether the specimens of record show use of applicant's mark for the services recited in the first amended recitation of services	Refusal Affirmed (on both grounds)		design mark consisting of a stylized human figure [providing information via a global computer network relating to products of others in the field of bearings, power transmission components, electrical products, industrial belting, fluid power, hydraulic equipment and related items ( <i>first amended recitation of services</i> )]		Gardiner	No

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